INITED AMARIA DIAMBIAM AAIIDM

2	DISTRICT OF PUERTO RICO	
3	PUERTO RICO TELEPHONE CO.,	
4	Plaintiff,	Civil No. 05-2224 (JAF)
5	V.	
6 7 8	MUNICIPALITY OF PONCE, and the HONORABLE FRANCISCO ZAYAS SEIJO,	
9	Defendants.	

10 ORDER

The court **notes** defendants' "Motion Regarding Proceedings," filed September 29, 2006, <u>Docket Document No. 16</u>. There, defendants concede that the ordinance challenged in the present case is, for all practical purposes, null and void, by virtue of the decision by the First Circuit Court of Appeals in <u>Puerto Rico Telephone Company, Inc. v. Municipality of Guayanilla</u>, No. 05-1400, 2006 WL 1545067 (1st Cir. June 7, 2006) (municipal ordinance preempted by § 253 of the Federal Telecommunications Act), and consent to the entry of declaratory judgment.

Therefore, the court **grants** Plaintiff's request for Declaratory Judgment, <u>Docket Document No. 1</u>, against the defendants, Municipality of Ponce and Francisco Zayas Seijo, for the same reasons as the Municipality of Guayanilla precedent, which is directly on point.

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Due to the similarity amongst the municipal ordinance declared null and void in <u>Municipality of Guayanilla</u> and Ponce's municipal ordinance, as admitted by defendants in <u>Docket Document No. 16</u>, the Municipality of Ponce Ordinance No. 25 is declared null and void in light of <u>Guayanilla</u>. Should the Court of Appeals reconsider or modify its holding in <u>Municipality of Guayanilla</u>, Plaintiff may move to reopen the instant case. Otherwise, once the Municipality of Ponce enacts the new municipal ordinance according to the parameters provided by the Court of Appeals, Plaintiff may file a new complaint should it deem it proper.

Judgment shall be entered accordingly.

IT IS SO ORDERED.

San Juan, Puerto Rico, this 26th day of October, 2006.

14 S/José Antonio Fusté 15 JOSE ANTONIO FUSTE 16 Chief U.S. District Judge